

MARTHA ISAAC

IBLA 76-5

Decided October 15, 1975

Appeal from decision of Fairbanks District Office, Bureau of Land Management, rejecting Native allotment application F-12107 as to Parcel A.

Affirmed.

1. Alaska: Land Grants and Selections: Generally -- Alaska: Native Allotments

A selection filed by the State of Alaska under its Statehood Act segregates the land from all appropriations based on settlement and location when the application is accepted by BLM and posted to the appropriate land status records. A Native allotment application is properly rejected where applicant fails to show occupation and use prior to the filing of an acceptable State selection application.

APPEARANCES: Barbara Evans, Alaska Legal Services Corporation, for appellant. 1/

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Martha Isaac appeals from a decision 2/ of the Fairbanks District Office, Bureau of Land Management (BLM), rejecting her

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1/ Ms. Evans filed the Notice of Appeal on behalf of the appellant, but no Statement of Reasons has been received and this appeal is therefore subject to summary dismissal. 43 CFR 4.402(a).

2/ A decision, dated May 15, 1975, rejected appellant's application for Parcel A. A supplemental decision, dated May 30, 1975, indicated that the State of Alaska was to be served as an adverse party.

Native allotment application F-12107 for Parcel A, one of three parcels for which she applied, and suspending action on Parcels B & C.

Appellant's application, received August 7, 1969, stated that she commenced her occupation and use of Parcel A on July 1, 1968. On September 28, 1974, she received notice that the land in Parcel A is within State selected land withdrawn from appropriation when Application F-027782 was filed by the State of Alaska on May 25, 1961. The notice allowed appellant 60 days to supply evidence of use and occupation of Parcel A prior to the filing of the State selection application. Subsequent extensions allowed the appellant to furnish the necessary information until April 13, 1975. The evidence was never offered and the District Office rejected the application for Parcel A.

[1] The regulations provide that land applied for by the State of Alaska will be segregated from all appropriations when the State files its application to select. 43 CFR 2627.4(b). Appellant's failure to show that she used and occupied the land prior to the State selection requires that her application for Parcel A be rejected. Natalia Wassilliey, 17 IBLA 348 (1974); Helen F. Smith, 15 IBLA 301 (1974).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed and the case remanded for further processing the application for Parcels B and C.

Douglas E. Henriques  
Administrative Judge

We concur:

Martin Ritvo  
Administrative Judge

Joan B. Thompson  
Administrative Judge

